

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

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Kenneth Imhotep Vaughn Bey,

Plaintiff,

v.

Connie Isler,

Defendant.

Case No. 2:21-cv-01458-GMN-BNW

**Screening Order and  
Report & Recommendation**

Plaintiff initiated this matter with an application to proceed *in forma pauperis* and an accompanying complaint. (IFP Application (ECF No. 1).) Plaintiff submitted the affidavit required by 28 U.S.C. § 1915(a) showing an inability to prepay fees or costs or give security for them. Plaintiff's request to proceed *in forma pauperis* therefore will be granted. The court now screens Plaintiff's complaint (ECF No. 1-2) as required by 28 U.S.C. § 1915(e)(2).

**I. ANALYSIS**

**A. Screening standard**

Upon granting a request to proceed *in forma pauperis*, a court must screen the complaint under 28 U.S.C. § 1915(e)(2). In screening the complaint, a court must identify cognizable claims and dismiss claims that are frivolous, malicious, fail to state a claim on which relief may be granted, or seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). Dismissal for failure to state a claim under § 1915(e)(2) incorporates the standard for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6). *Watison v. Carter*, 668 F.3d 1108, 1112 (9th Cir. 2012). To survive § 1915 review, a complaint must "contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face." *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). The court liberally construes pro se complaints and may only dismiss them "if it appears beyond doubt that the plaintiff can prove no set of facts

1 in support of his claim which would entitle him to relief.” *Nordstrom v. Ryan*, 762 F.3d 903, 908  
 2 (9th Cir. 2014) (quoting *Iqbal*, 556 U.S. at 678).

3 In considering whether the complaint is sufficient to state a claim, all allegations of  
 4 material fact are taken as true and construed in the light most favorable to the plaintiff. *Wylar*  
 5 *Summit P’ship v. Turner Broad. Sys. Inc.*, 135 F.3d 658, 661 (9th Cir. 1998) (citation omitted).  
 6 Although the standard under Rule 12(b)(6) does not require detailed factual allegations, a plaintiff  
 7 must provide more than mere labels and conclusions. *Bell Atlantic Corp. v. Twombly*, 550 U.S.  
 8 544, 555 (2007). A formulaic recitation of the elements of a cause of action is insufficient. *Id.*  
 9 Unless it is clear the complaint’s deficiencies could not be cured through amendment, a pro se  
 10 plaintiff should be given leave to amend the complaint with notice regarding the complaint’s  
 11 deficiencies. *Cato v. United States*, 70 F.3d 1103, 1106 (9th Cir. 1995).

#### 12 **B. Screening the complaint**

13 The Court will recommend that plaintiff’s complaint be dismissed without leave to amend.  
 14 It is unclear what claim(s) Plaintiff is asserting, what the elements of that claim are, and whether  
 15 Plaintiff has plausibly alleged each element of the claim. Instead, Plaintiff merely alleges that he  
 16 is a "sovereign to the land," that he possesses an "Allodial Title," that a mortgage "is a dead  
 17 pledge," that defendant Connie Isler is a "slave of the state," and that Plaintiff owns title to certain  
 18 property in Henderson, Nevada. ECF No. 1-2 at 3. Even affording the complaint the broadest  
 19 construction possible, the Court finds that Plaintiff has failed to plausibly allege a claim.

20 The Court may dismiss a case *sua sponte* and without notice to plaintiff if the plaintiff  
 21 "cannot possibly win relief." *Sparling v. Hoffman Constr. Co.*, 864 F.2d 635, 638 (9th Cir. 1988).  
 22 A complaint should be dismissed for failure to state a claim upon which relief may be granted “if  
 23 it appears beyond a doubt that the plaintiff can prove no set of facts in support of his claims that  
 24 would entitle him to relief.” *Buckey v. Los Angeles*, 968 F.2d 791, 794 (9th Cir. 1992).

25 A complaint may be dismissed as frivolous if it is premised on a nonexistent legal interest  
 26 or delusional factual scenario. *Neitzke v. Williams*, 490 U.S. 319, 327-28 (1989). Moreover, “a  
 27 finding of factual frivolousness is appropriate when the facts alleged rise to the level of the  
 28 irrational or the wholly incredible, whether or not there are judicially noticeable facts available to

1 contradict them.” *Denton v. Hernandez*, 504 U.S. 25, 33 (1992). When a court dismisses a  
2 complaint, the plaintiff should be given leave to amend with directions as to curing its  
3 deficiencies unless it is clear from the face of the complaint that the deficiencies could not be  
4 cured by amendment. *Cato v. United States*, 70 F.3d 1103, 1106 (9th Cir. 1995).

5 Here, plaintiff cannot possibly state a claim. He relies on no cognizable legal authority,  
6 he presents no tenable legal theories, and his complaint is properly characterized as frivolous.

7 **II. CONCLUSION**

8 IT IS THEREFORE ORDERED that Plaintiff’s application to proceed *in forma pauperis*  
9 (ECF No. 1) is GRANTED. Plaintiff is permitted to maintain this action to conclusion without  
10 prepaying fees or costs or giving security for them.

11 IT IS FURTHER ORDERED that the clerk of court must detach and separately file  
12 Plaintiff’s complaint (ECF No. 1-2).

13 IT IS RECOMMENDED that plaintiff’s complaint be dismissed without leave to amend.

14 DATED: August 11, 2021.

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17 Brenda Weksler  
18 United States Magistrate Judge  
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